

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**EIGHT MILE STYLE, LLC; MARTIN  
AFFILIATED, LLC,**

**Plaintiffs,**

**v.**

**SPOTIFY USA INC.;  
THE HARRY FOX AGENCY LLC,**

**Defendants.**

**CIVIL CASE NO.: 19-CV-00736**

**JUDGE ALETA A. TRAUGER**

**JURY DEMAND**

**SPOTIFY USA INC.,**

**Third-Party Plaintiff,**

**v.**

**KOBALT MUSIC PUBLISHING  
AMERICA, INC.**

**Third-Party Defendant.**

**DEFENDANT THE HARRY FOX AGENCY LLC'S MOTION FOR LEAVE TO  
EXCEED THE PAGE LIMIT IN ITS MEMORANDUM OF LAW AND TO FILE  
DOCUMENTS UNDER SEAL**

Pursuant to Section (III)(C)(3) of Judge Trauger's Practice and Procedures Manual and Local Rule 7.01(a)(2), Defendant The Harry Fox Agency LLC ("HFA") respectfully moves the Court for leave to exceed the page limit set forth in the Twelfth Amended Initial Case Management Order, (Dkt. No. 291), in its Memorandum of Law in Support of its Motion to Exclude the

Opinions of Robert “Bob” Kohn (the “Memorandum”) and file a Memorandum of no more than thirty-three (33) pages.

There is good cause for an enlargement in this case. The Memorandum addresses significant factual and legal issues presented in the 580 pages of the three reports tendered by Kohn in this matter and in his deposition testimony. The total number of pages produced solely by Kohn exceeds the total number of pages of the 20 expert reports produced by Spotify, HFA, and Kobalt combined. As set forth in the Memorandum, the pervasive nature of the issues throughout the Kohn reports presents the parties with a herculean task of parsing through the reports to adequately analyze their admissibility. Thus, this enlargement is necessary for HFA to fully and adequately address these deficiencies, and it will, likewise, assist the Court in resolving the question of the admissibility of Kohn’s opinions.

HFA additionally seeks leave to file the Memorandum, its Appendices, and its Exhibits under seal pursuant Local Rule 5.03, Administrative Order 167-1, and the Amended Stipulated Protective Order, (Dkt. No. 217).

To “justify nondisclosure to the public,” “[t]he proponent of sealing must provide compelling reasons to seal the documents and demonstrate that the sealing is narrowly tailored to those reasons—specifically, by ‘analyz[ing] in detail, document by document, the propriety of secrecy, providing reasons and legal citations.’” *Beauchamp v. Federal Home Loan Mortgage Co.*, 658 F. App’x 202, 207 (6th Cir. 2016) (quoting *Shane Grp, Inc. v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299, 305-06 (6th Cir. 2016)).

In this case, HFA seeks to seal its Memorandum, Appendices A-F, and Exhibits A-F. The Memorandum and Appendices—which address specific line-by-line concerns within Kohn’s proffered expert reports—are each replete with specific citations, quotations, and references to

portions of the record which contain confidential business information and information and testimony which has been marked “Highly Confidential – Outside Counsel’s Eyes Only”, by multiple parties in this litigation, pursuant to the Amended Stipulated Protective Order, (Dkt. No. 217). Exhibits A through E contain deposition testimony and documents relied upon by Kohn in rendering his opinions. As with the Memorandum and Appendices, Kohn’s testimony is replete with confidential business information and information which has been designated confidential by the parties to this litigation. Exhibits E and F contain specific documents from the record designated counsel’s eyes only by HFA and deposition testimony concerning those documents. As a result, they should be sealed.

Protection of the contents of the Memorandum, Appendices, and Exhibits is necessary to avoid public disclosure which may violate agreements or implicate party’s or non-party’s privacy interests. *See Good L. Corp. v. Fasteners for Retail, Inc.*, 2020 WL 6948360, at \*2 (M.D. Tenn. Jun. 15, 2020) (granting a motion to seal because the documents include “specific financial and market information”); *London Computer Sys., Inc. v. Zillow, Inc.*, 2019 WL 4110516, at \*4 (S.D. Ohio Aug. 29, 2019) (noting that disclosure of documents would “cause a competitive disadvantage” to the corporation). Given the pervasive nature of the confidential information contained in each of the Memorandum, the Appendices, and the Exhibits, redaction is not a feasible nor practical alternative means to protect this information.

This is not the first such request in this case; the Court has previously granted requests from parties to this litigation to file similar materials under seal, (*see* Dkt. Nos. 109, 186, 226, 239), including most recently a request by Spotify USA Inc. to file a memorandum and supporting documents under seal in support of their motion to disqualify Kohn, (*see* Dkt. No. 296). HFA requests the same treatment for these filings.

Based on the foregoing, HFA respectfully requests that the Court grant it leave to exceed the page limit in the filing of its Memorandum and to grant it leave to file the Memorandum, Appendices, and Exhibits under seal. HFA has conferred with the other parties to this action regarding the relief sought in this motion. No party opposes HFA's request to file the referenced documents under seal.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of *DEFENDANT THE HARRY FOX AGENCY LLC'S MOTION FOR LEAVE TO EXCEED THE PAGE LIMIT IN ITS MEMORANDUM OF LAW AND TO FILE DOCUMENTS UNDER SEAL* was filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties and counsel of record by operation of the Court's CM/ECF system, and via electronic and/or U.S. mail, postage prepaid, on September 13, 2023, to:

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